86-301

Supreme Court, U.S.
FILED
JUN 20 1986
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NO. _____
UNITED STATES SUPREME COURT
OCTOBER TERM, 1986

HARRIET M. LIEDTKE,

PETITIONER,

V

THOMAS BUJOLD, SHERYL RAMSTAD-HVASS, PETER POPOVICH, STATE OF MINNESOTA, OTHERS

RESPONDENTS.

ON WRIT OF CERTIORARI TO THE U. S. COURT OF APPEALS FOR THE 8TH CIRCUIT

PETITION

Petitioner
Harriet M. Liedtke
1213 Gentry Av N #310
Oakdale, MN 55119

BEST AVAILABLE COPY

19 pp

QUESTIONS PRESENTED FOR REVIEW

Whether federal court should take jurisdiction for equity reasons because petitioner pleads such large number of, and pervasive, denials of due process in the state courts that she cannot obtain even basic rights to due process there, 42 USC 1983.

If federal court takes jurisdiction, then* whether pro se petitioner pleads Thomas Bujold acted without jurisdiction, even though inexpertly

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* Assuming here (which may not be correct, in which case this should be a separate "Question Presented for Review") that federal court has no jurisdiction over just this claim in this paragraph once it dismissed the other claims due to (a) State of Minnesota immunity in federal court (11th Amendment), and (b) judicial immunity for judicial acts performed with jurisdiction.

she did not use word "jurisdiction", stating cause of action against Thomas Bujold nevertheless (Complaint #7 #8 #16), since well-established law makes a judge personally liable for acting without jurisdiction (specifically, in this case: M.S. 542.10, M.S. 542.01, Minn. R. of Civ. P. Rule 82, 108 NW2d 624, 22 NW 2d 853, 117 NW 2d 743, 211 NW 11, 202 NW 820).

If federal court takes jurisdiction, then whether the State of Minnesota is liable for the acts of its employee judges (agencies), M.S. 3.736; i.e., whether there is judicial discretion to violate the Code of Judicial Conduct (3.A.(2) (3) (4), 3.B.(3), 3.C.(1)(a), 2.A.) and statutes pertaining to judicial conduct, M.S. 546.27, M.S. 487.40, M.S. 480A.08(2).

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TABLE OF AUTHORITIES

Question 1. 42 USC 1983 (pg. ii)(Appendix C)

Question 2.* M.S. 542.10 & M.S. 542.01 & Minn. R. Civ. P. Rule 82 (pgs. iii & 5) (Appendix C); 108 NW 2d 624, 22 NW 2d 853, 117 NW 2d 743, 211 NW 11, 202 NW 820 (pg iii); M.S. 487.15 (pg. 5)(Appendix C)

Question 3.** M.S. 3.736 & M.S. 3.732 & Code of Judicial Conduct 3.A.(2) (3) (4) & 3.B.(3) & 3.C.(1)(a) & 2.A. & M.S. 546.27 & M.S. 487.40 & M.S. 480A.08(2) (pg. iii)(Appendix C)

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* optional; contingent on 1., possibly
** optional; contingent on 1.

JURISDICTION

U.S. Constitution - power of Supreme Cart to intervene in all matters involving courts, judges, due process

42 USC 1983

M.S. 3.736

28 USC 2101(c) & 28 USC 1331

The date of the judgment sought to be reviewed is: March 19, 1986.

The time of its entry is: same.

CONCURRENT STATE COURT PROCEEDINGS

Petitioner intends to appeal to the Minnesota Court of Appeals at this time the judgment of dismissal of her complaint (a) to hold Thomas Bujold personally liable for his unauthorized actions as a judge without jurisdiction (cause of action not addressed in federal court; see also footnote on pg. ii of this petition); (b) to hold the State of Minnesota liable for lawlessness

and discriminatory acts of its employee judges (it has waived sovereign immunity); and (c) to hold the State of Minnesota liable for the deceit and neglect of public duty of its oversight bodies (Supreme Court, Board on Judicial Standards, Governor, Lawyer's Professional Responsibility Board).

CONCISE STATEMENT OF FACTS

The claims made in State of Minnesota courts deal with denial of welfare benefits (1983), faulty brake installation (1979), broken attorney/client contract and mandamus (1983), faulty transmission repair (1982)--these and the related group: (1) against auto body shop for violation of assumed name statute (1983), (2) against auto body shop for full re-

fund (1983), (4) against auto body shop for fraud making discovery of entire cause of action impossible, against insurer of automobile for breach of insurance contract in failing to repair automobile, against insurance agent for collusion with auto body shop, against auto body shop attorney for asserting personal knowledge of the facts in issue and deceit and misconduct during a lawsuit, and against auto body shop to set aside judgment because of perjury, attorney deceit and misconduct, and judicial misconduct (1984), and (5) against insurer of automobile for failing to pay total loss (1983).

ARGUMENT

One does not fit 100 instances of judicial lawlessness into one short

argument. Instead, one tiny portion of it follows, called, "How Judges Discriminate", made up of three short examples, followed by a short discussion of one of the examples.

How Judges Discriminate - From the "Second Brief of Appellant: Reply Brief", pages 11-12:

> Nine times, nine separate times, the issue of jurisdiction of #151893 (#20007) was before judges. Six times judges ruled they had jurisdiction (in three, they declined to consider the issue). Yet, statutes, court rules, and all five existing court decisions on the subject leave no doubt that they do not. So, when the proof is 100% one way and they all rule the opposite, what happens when, say, the proof is 70%, or 51%? No matter what statutes, constitutions, or a Code of Judicial Conduct, previous court decisions say, there is no due process for Harriet Liedtke in State of Minnesota courts.
>
> In Complaint #13, Judge Popovich dismisses a mandamus appeal for failure to serve certain persons. Minnesota law clearly states that in mandamus in district court,

the defendants are the persons who the writ is to be directed to, in this case, the County Court judge. On appeal of the denial of the mandamus petition, appeal papers, by court rules, need to be served only on defendants. Yet Popovich dismisses the appeal for failure to serve a different person--but there's no such law which requires it.

In Complaint #20, a judge denies motions for the reason of lack of affidavits of service. When the pro se litigant points out to the judge that proof of service is in the file where court rules specify that either is adequate, the judge rules not only are the motions denied, but all future motions shall be by personal service. The "punishment" is even harsher for pointing out to the judge that the first order is unlawful.

Constitutional rights, due process, etc., access to courts, is not something which Harriet Liedtke has any of in Minnesota.

Discussion - A judge cannot after the passing of time by statute (M.S. 542.10, M.S. 542.01) and court rule (82) legally transfer venue (hence, confer jurisdiction), regardless of M.S. 487.

15 (common law codified), so Thomas Bujold's lack of jurisdiction can be very clear if judges would just look at the 5 cited cases and statute, but which judges have never done because they think they know jurisdiction and that pro se petitioner can't in a million years put forth something which would most assuredly reverse that preconception, if they would, in most instances, just look. That they refuse this simple, but essential, act results in discrimination against Harriet Liedtke whose status as a pro se litigant doesn't elicit the necessary act by the judges to read the cited law.

And etcetera, ad infinitum.

Harriet M. Liedtke

Harriet M. Liedtke

7/11/86

UNITED STATES COURT OF APPEALS

For The Eighth Circuit

No. 85-5413

Harriet M. Liedtke,

Appellant,

v

Thomas Bujold, Sheryl Ramstad-Hvass, Peter Popovich and State of Minnesota,

Appellees.

Submitted: February 25, 1986

Filed: March 19, 1986

Before HEANEY, GIBSON, and FAGG

PER CURIAM.

Harriet Liedtke appeals from the district court's order dismissing her 42 U.S.C. §1983 complaint for failure

to state a claim under Fed. R. Civ. P. 12(b)(6). We affirm.

Dissatisfied with what she perceived to be unsatisfactory repairs on her car from an auto body repair shop, Liedtke embarked on a series of eight different lawsuits in the Minnesota state courts. Although she apparently received a favorable judgment in her first suit, it appears that the remaining actions were unsuccessful, and at times resulted in malicious prosecution awards against her. Liedtke then brought this action against the State of Minnesota; three state court judges, Thomas Bujold, Sheryl Ramstad-Hvass, and Peter Popovich; and unspecified "others" contending that the defendants denied her constitutional right of access to the

court. Liedtke specified forty instances in which the defendants violated her right of access to the court.

The district court concluded that Liedtke's claims against the State of Minnesota were precluded by the eleventh amendment, and that her claims against the state court judges were precluded by judicial immunity or were conclusory. After considering the briefs, Liedtke's complaint, the record, and the district court's opinion, we conclude that the court properly dismissed Liedtke's complaint. Accordingly, we affirm the district court's opinion under 8th Cir. R. 14.

UNITED STATES DISTRICT COURT

District of Minnesota

No. 3-85-1530

Harriet M. Liedtke,

Plaintiff,

v

State of Minnesota, Thomas Bujold, Sheryl Ramstad-Hvass, and Peter Popovich, and others,

Defendants.

This cause came on for hearing before this court on November 8, 1985, on a motion to dismiss under Rule 12(b) filed by defendants State of Minnesota, Thomas Bujold, Sheryl Ramstad-Hvass and Peter Popovich, contending that plaintiff's complaint fails to state a claim against defendants upon which relief can be granted. Defendants' contention is based on the grounds that the Eleventh Amendment bars this action against the State of Minnesota, that the judge defendants are absolutely immune from

damage liability for the actions alleged in all but two of the allegations in the complaint, and that the remaining allegations against individual judges are purely conclusory.

It is the opinion of this Court, having considered briefs and oral arguments for both sides, that the complaint filed by plaintiff herein fails to state a claim against defendants State of Minnesota, Thomas Bujold, Sheryl Ramstad-Hvass and Peter Popovich, upon which relief can be granted for the reasons cited by defendants. Having found that defendants' motion to dismiss is well-founded, the plaintiff's complaint is dismissed.

Dated: November 8, 1985.

/s/ Paul A. Magnuson
Judge

M.S. 487.40: No judge shall sit in any cause if he be interested in its determination, or if he might be excluded for bias from acting therein.

M.S. 480A.08(2): In assigning judges to panels, the chief judge shall rotate assignments, so that as nearly as practicable, each judge serves a proportionate time with every other judge.

Code of Judicial Conduct 3.A.(2) (3) (4): A judge should maintain order and decorum in proceedings before him ....a judge should be patient, dignified, and courteous to litigants.... a judge should accord to every person [a] full right to be heard.

Code of Judicial Conduct 3.B.(3): A judge should take or initiate appropriate disciplinary measures against a...lawyer for unprofessional conduct of which the judge may become aware.

Code of Judicial Conduct 3.C.(1)(a): A judge should disqualify himself in a proceeding...where he has a personal bias or prejudice concerning a party.

Code of Judicial Conduct 2.A.: A judge should avoid impropriety and the appearance of impropriety in all his activities.

M.S. 3.736(9): The determination of whether an employee of the state was acting within the scope of his employment shall be a question of fact to be determined by the trier of fact

based upon the circumstances of each case...with respect to an elected official [emphasis added].

M.S. 3.736(1): The state will pay compensation for injury to or loss of property or personal injury or death caused by an act or omission of any employee of the state while acting within the scope of his office or employment, under circumstances where the state, if a private person, would be liable to the claimant [emphasis added].

M.S. 3.732(3): 'Scope of his office or employment' means that the employee was acting on behalf of the state in the performance of duties or tasks lawfully assigned to him by competent authority [emphasis added].

M.S. 546.27: All motions and matters submitted to a judge for a decision in trial and appellate matters shall be disposed of and the decision filed with the clerk within 90 days after such submission, unless sickness or casualty shall prevent, or the time be extended by written consent of the parties....The board on judicial standards shall review the compliance of each...judge with the provisions of [this section]....Upon notification [by the board on judicial standards] that a judge is not in compliance, the Commissioner of Finance shall not pay the salary of that judge.

M.S. 487.15: The county court may hear, try, and determine actions at

law in which the amount in controversy does not exceed $15,000, exclusive of interest and costs, except for causes involving title to real estate.

M.S. 542.01: Every civil action shall be tried in the county in which it was begun, unless the place of trial be changed as hereinafter prescribed.

Minn. R. Civ. P. Rule 82: These rules shall not be construed to extend or limit the jurisdiction of the [county] courts or the venue of actions therein.

M.S. 542.10: If the county designated in the complaint is not the proper county, the action may notwithstanding be tried therein unless, within 20 days after the summons is served, the defendant demands in writing that it be tried in the proper county. This demand shall be accompanied by the affidavit of the defendant....

42 USC 1983: Every person who, under color of any statute...custom, or usage, of any state...or causes to be subjected, any citizen of the U.S.... to the deprivation of any rights... secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress.